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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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REF SATURN CO. LTD.,

Plaintiff,

-against-

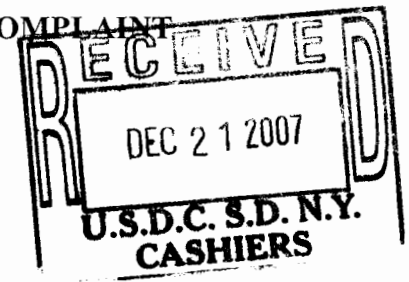
DGM COMMODITIES, CORP.,

Defendant.  
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**JUDGE BAER**  
**07 CV 11489**

07 CV  
ECF CASE

VERIFIED COMPLAINT



Plaintiff, REF SATURN CO., LTD. (hereinafter referred to as "Plaintiff"), by and through its attorneys, Casey & Barnett, LLC, as and for its Verified Complaint against the Defendant, DGM COMMODITIES, CORP. (hereinafter referred to as "Defendant"), alleges, upon information and belief, as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and 28 United States Code § 1333.

2. At all times material to this action, Plaintiff, REF SATURN CO. LTD., was and still is a corporation organized and existing under the laws of a foreign country, with an office and place of business located in Panama City, Panama, and at all said times was engaged in the business of chartering and was, and still is, the owner of the M/V REF VEGA, as more fully described below.

3. Upon information and belief, Defendant, DGM COMMODITIES, CORP. was and still is a business entity, organized and existing under the laws of the State of New York,

with its principal office and place of business located at 111 Great Neck Road, Suite 208, Great Neck, New York 11021, and at all said times was in the business of shipping frozen agricultural products.

#### **RELEVANT FACTS**

4. Pursuant to a GENCON Charter Party (“the Charter Party”), dated October 11, 2007, defendant chartered from plaintiff capacity aboard the M/V REF VEGA for the carriage of a cargo of frozen food products from New Orleans, Louisiana to St. Petersburg, Russia.

5. In accordance with the terms of the Charter Party, the M/V REF VEGA was loaded with a cargo of frozen food in New Orleans, Louisiana and, on October 31, 2007, sailed for its intended destination, St. Petersburg, Russia.

6. On or about November 20, 2007 the vessel arrived in St. Petersburg where, through no fault of the plaintiff, it was not permitted to proceed into the port to discharge the cargo of frozen food.

7. Due to the delay in the ability for the M/V REF VEGA to timely berth and discharge the aforementioned cargo, the vessel exceeded its allowable laytime and is owed demurrage from the defendant.

8. Pursuant to Clause 7 and Box No. 20 on the Charter Party, demurrage is payable to plaintiff at a rate of \$12,7500 per day pro rata for the 1<sup>st</sup> five days, and \$16,500 per day pro rata thereafter.

9. Plaintiff is presently owed demurrage in the amount of at least \$250,000, no part of which has been paid, despite due demand.

10. By virtue of the foregoing, defendant has breached the Charter Party to which it voluntarily entered.

11. The Defendant cannot be found within this District within the meaning of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, but, upon information and belief, Defendant has, or will have during the pendency of this action, assets within this District subject to the jurisdiction of this Court, held in the hands of garnishees including, but not limited to *ABN Amro, American Express Bank, Bank of America, Bank of New York, Citibank, Deutsche Bank A.G., HSBC Bank USA, J.P. Morgan Chase, Standard Chartered Bank*, and/or *Wachovia Bank N.A.*, which are believed to be due and owing to the Defendant.

12. The Plaintiff seeks an Order from this Court directing the Clerk of the Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for certain Admiralty and Maritime claims, attaching *inter alia*, any assets of the defendant held by the aforesaid garnishees for the purpose of obtaining personal jurisdiction over the Defendant and to secure Plaintiff's claim as described above.

**WHEREFORE**, Plaintiff prays:

A. That process in due form of law issue against Defendant, citing it to appear and answer under oath all and singular matters alleged in the Complaint;

B. That since the defendant cannot be found within this District pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, this Court issue an Order directing the Clerk of the Court to issue Process of Maritime Attachment and garnishment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, attaching all goods, chattels, credits, letters of credit, bills of lading, effects, debts and monies, tangible or intangible, or any other funds held by any garnishee including, but not limited to, *ABN Amro, American Express Bank, Bank of America, Bank of New York, Citibank, Deutsche Bank A.G., HSBC Bank USA, J.P. Morgan Chase, Standard Chartered Bank*, and/or *Wachovia*

*Bank N.A.*, which are due and owing to the Defendant, in the amount of \$250,000 calculated to date to secure the plaintiff's claims, and that all persons claiming any interest in the same be cited to appear and pursuant to Supplemental Admiralty Rule B answer the matters alleged in the Complaint;

C. An Order recognizing and enforcing any final judgment rendered by a Mexican Court in Plaintiff's favor for the monies owed and the claims herein;

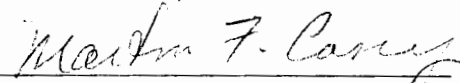
D. That this Court retain jurisdiction over this matter through the entry of any judgment or award associated with any of the claims currently pending, or which may be initiated in the future, including any appeals thereof; and

E. That Plaintiff has such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
December 21, 2007  
310-02

The Plaintiff,  
Ref Saturn Co., Ltd.

By:

  
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